

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1027 - SB 1370

March 17, 2015

**SUMMARY OF BILL:** Enacts the Public Construction Contractor Safety Act. Requires the Department of Transportation (TDOT), in consultation with the Department of Labor and Workforce Development, to develop a standardized prequalification questionnaire and rating system to assess bidders on objective metrics of occupational safety and health performance in order to prequalify bidders and their subcontractors on department construction contracts. Requires the views of the administrator of the Tennessee Occupational Safety and Health Administration (TOSHA) be given special consideration in developing the prequalification questionnaire and rating system and requires TDOT to consult with occupational safety and health professionals, contractor management consulting firms, construction contractors, building trades unions, awarding authorities, and other interested parties in developing the standardized questionnaire and rating system. Authorizes TDOT to negotiate a compensation agreement with the private sector management consulting firm whereby the cost of its services are absorbed by bidders for department construction contracts. Requires TDOT to review relevant scientific and engineering literature, standards in use by other awarding bodies, and federal occupational safety and health administration guidance documents to determine key occupational safety and health metrics.

Prohibits a bidder from submitting a bid or from being awarded a department construction project contract estimated to exceed \$500,000 unless: the bidder submits a list of all subcontractors who will perform construction work on the project to the department; and the bidder and all subcontractors who will perform construction work on the project have valid prequalification scores. Prohibits a subcontractor from performing construction work on any department construction project with an estimated cost exceeding \$500,000 unless the subcontractor has a valid prequalification score. Prohibits a bidder or subcontractor from bidding on, being awarded, or performing any construction work on a department construction project if the department determines that the bidder or subcontractor provided false or misleading information in connection with a bid in the preceding five years; or it is determined the bidder or subcontractor does not have current workers' compensation coverage.

Requires TDOT to assign an onsite trained and competent person to monitor and oversee occupational safety and health matters on any construction project estimated to exceed \$500,000. Establishes reporting requirements of all contractors and subcontractors of department construction projects. Requires the department to establish and publicize a means through which workers on department construction projects or members of the general public may report concerns about hazardous conditions on department construction projects. Requires any funds received by the department from monetary penalties paid by contractors or subcontractors to be placed in a special fund to be known as the "public construction contractor safety fund," which will be administered by the department and be available for use after January 1, 2016, to pay for

occupational safety and health training of workers employed by contractors or subcontractors on department construction projects. The act will take effect January 1, 2016.

## **ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$320,000/One-Time/Highway Fund  
\$5,760,000/Recurring/Highway Fund**

**Increase Federal Expenditures - \$7,680,000/Recurring**

### **Assumptions:**

- Due to the requirements in the bill regarding staffing of construction projects with safety professionals and scoring and record keeping of safety infractions which are not currently within the administrative capabilities of the department, the Department of Transportation (TDOT) estimates the need for 200 additional Safety Inspector positions and 10 additional administrative positions.
- Based on information provided by TDOT, the department had a total of 3,343 filled positions as of June 30, 2014, and payroll costs of \$214,553,415 resulting in an average salary of \$64,180 ( $\$214,553,415 / 3,343$ ).
- The additional 200 Safety Instructor positions are estimated to increase expenditures by \$12,800,000 (200 positions x \$64,000). Approximately 75 percent of construction projects over \$500,000 are funded with 80 percent federal funds and 20 percent state funds. Therefore, the increase in federal expenditures is estimated to be \$7,680,000 ( $\$12,800,000 \times 0.75 \times 0.80$ ) and the increase in state funds is estimated to be \$5,120,000 ( $\$12,800,000 - \$7,680,000$ ).
- According to information received by TDOT, in order to meet the Occupational Safety and Health Administration (OSHA) specifications, additional training costs will be required resulting in a one-time increase in state expenditures of \$320,000 (200 safety inspector positions x \$800 per course x 2 courses).
- The additional 10 administrative positions will result in increased recurring state expenditures of \$640,000 ( $\$64,000 \times 10$  positions).
- The total increase in state Highway Fund expenditures will be \$5,760,000 ( $\$5,120,000 + \$640,000$ ) recurring and \$320,000 one-time.
- The total increase in federal expenditures will be \$7,680,000.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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